

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL****FOR: HEALTH CARE FINANCING ADMINISTRATION**

1. TRANSMITTAL NUMBER:

0 0 - 0 2 2

2. STATE:

Minnesota

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL
SECURITY ACT (MEDICAID)

4. PROPOSED EFFECTIVE DATE

July 1,, 2000

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

42 CFR 447.252

7. FEDERAL BUDGET IMPACT:

a. FFY '00 \$ 1,625

b. FFY '01 \$ 9,567

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Att. 4.19-D (NF), pp. 1-148

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

Att. 4.19-D (NF), pp. 1-141

10. SUBJECT OF AMENDMENT:

Methods and Standards for Determining Payment Rates for Services Provided by Nursing
Facilities (Not State Owned)

11. GOVERNOR'S REVIEW (Check One):

☒ GOVERNOR'S OFFICE REPORTED NO COMMENT☐ OTHER, AS SPECIFIED:☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL:

Ann Berg for Mary B. Kennedy

13. TYPED NAME:

Mary B. Kennedy

14. TITLE:

Medicaid Director

15. DATE SUBMITTED:

September 28, 2000

16. RETURN TO:

Stephanie Schwartz
Minnesota Department of Human Services
444 Lafayette Road North
St. Paul, MN 55155-3853**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

9/29/00

18. DATE APPROVED:

~~9/29/00~~ 5/15/01**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL:

July 1, 2000

20. SIGNATURE OF REGIONAL OFFICIAL:

Cheryl A. Harris

21. TYPED NAME:

Cheryl A. Harris

22. TITLE: Associate Regional Administrator
Division of Medicaid and Insurance Oversight

23. REMARKS:

MINNESOTA
MEDICAL ASSISTANCE
Federal Budget Impact of Proposed State Plan Amendment TN 00-22
4.19-D (NF): Methods and Standards for Determining Payment Rates for Services
Provided by Nursing Facilities (Not State Owned)

Changes, effective for the July 1, 2000, rate year, to nursing home payment methodology:

- Section 11.020, page 49: Obsolete language is deleted.
- Section 11.045, pages 50-54: Obsolete language is deleted due to repeal of its statutory language. Pursuant to Laws of Minnesota 2000, chapter 449, sections 11 and 12 (amending Minnesota Statutes, section 256B.431, subdivisions 25 and 26).

deleted The language of current item H (page 53) is moved to Section 11.046, new item H on page 55 and to Section 11.047, new item M on page 59 because it applies to the 1996 and 1997 rate years. A cite to the last approved State plan amendment, TN 99-10, has been added for historical purposes.

Because current item I is applicable to rate years beginning July 1, 1997, it has been moved to Section 11.047, as item F on page 58 (Changes to nursing facility reimbursement beginning July 1, 1997).

- Section 11.046, pages 54-55: For historical purposes, the references to deleted Section 11.045 are amended by citing to the last approved State plan amendment, TN 99-10.
- Section 11.047, item F, page 58: Current language is deleted pursuant to Laws of Minnesota 2000, chapter 449, section 12 (Minnesota Statutes, section 256B.431, subdivision 26). "New" language has been moved from current Section 11.045, item I.
- Section 11.049, items D-F, page 63: Clarifies that the individual facility increases will be included in each facility's total payment rates for the purposes of determining future rates. Pursuant to Laws of Minnesota 2000, chapter 488, article 9, section 19 (amending Minnesota Statutes, section 256B.431, subdivision 28).
- Section 11.050, pages 63-66:
 - Item B: Clarifies that the operating rate payment increases are applied to each facility's June 30, 2000, operating payment rate.

Adds an additional increase for each case mix payment rate to be used to increase the hourly wage of employees (except for managers, administrators, and central office staff) by an equal dollar amount and to pay associated costs for FICA, Medicare tax, workers' compensation premiums, and federal and state unemployment insurance. This additional increase is calculated in the following manner: (1) all facilities receive a base per diem increase of \$1.00; (2) the Department constructs an array of facility rates, from highest to lowest, based on

the facilities' 11 case mix operating rates; and (3) facilities receive an additional "sliding rate" increase of up to \$3.13, based upon the facilities' positions within the array (lowest rate facilities receive the greatest increase). By increasing rates with a \$1.00 per resident day base and a "sliding amount" of up to \$3.13 based on the amount of a facility's current rate, the increases provide the most funding to low-rate facilities. Pursuant to Laws of Minnesota 2000, chapter 488, article 9, section 19 (amending Minnesota Statutes, section 256B.431, subdivision 28).

- Item D: Allows a nursing facility in Goodhue County to have its pension benefits treated as Public Employee Retirement Association (PERA) contributions in its rate calculation. The facility was municipally-run until August 1998 and was allowed to have a PERA plan. After it was sold to a not-for-profit company, the facility could no longer have a PERA plan, so retirement funds were converted to another plan. When changes were made in the method of computing nursing facility rates beginning July 1, 1999, the result was that annual pension expenses could not be included in the facility's July 1, 1999, rate. Recently enacted legislation corrects this unintended effect. Pursuant to Laws of Minnesota, chapter 294, section 2 (amending Minnesota Statutes, section 256B.431, subd. 28).
- Item E: Allows a nursing facility to receive an increase in its operating cost per diem. The increases are to be included in the facility's total payment rates for the purpose of determining future rates. Pursuant to Laws of Minnesota 2000, chapter 488, article 9, section 20 (Minnesota Statutes, section 256B.431, subdivision 29).
- Sections 11.060 through 11.063, pages 67-69: These have been deleted due to repeal of their statutory language. Pursuant to Laws of Minnesota 2000, chapter 449, section 15 (repealing Minnesota Statutes, section 256B.431, subdivisions 7, 8, and 9).
- Section 15.132, item A, pages 95-96: This is deleted due to repeal of its statutory authority. Pursuant to Laws of Minnesota 2000, chapter 449, section 15 (repealing Minnesota Statutes, section 256B.431, subdivision 3h).
- Section 15.135, page 98: This is deleted due to repeal of its statutory authority. Pursuant to Laws of Minnesota 2000, chapter 449, section 15 (repealing Minnesota Statutes, section 256B.431, subdivision 3b).
- Section 15.1365, page 100: This is deleted due to repeal of its statutory authority. Pursuant to Laws of Minnesota 2000, chapter 449, section 15 (repealing Minnesota Statutes, section 256B.431, subdivision 12).

- Section 15.1374:
 - Item H, page 110: New language clarifies that “total replacement” includes a new building addition to relocate beds from three- and four-bed wards. Pursuant to Laws of Minnesota 2000, chapter 488, article 9, section 18 (amending Minnesota Statutes, section 256B.431, subdivision 17).
 - Item I, page 111: New language allows nursing facility building relocation, renovation, upgrading, or conversion projects to receive the same replacement-cost-new per bed limits as nursing facility total replacement projects. Pursuant to Laws of Minnesota 2000, chapter 488, article 9, section 18 (amending Minnesota Statutes, section 256B.431, subdivision 17).
 - Item K, pages 111-112: New language sets a nursing facility’s replacement cost new per bed limit as currently provided in items I and J, but allows them to be adjusted annually. Language also specifies other rate setting criteria. Pursuant to Laws of Minnesota, chapter 488, article 9, section 18 (amending Minnesota Statutes, section 256B.431, subdivision 17).
 - Item L, page 112: New language adjusts a property rate calculation provision. This nursing facility was awarded a moratorium exception in 1998 and received funds to complete the renovation. The facility required statutory authority to adjust the incremental increase in the rental rate for the moratorium exception property calculation to \$8.16 in order to access the full amount of funding allocated for the project. There is no fiscal impact because the funds for the moratorium exception project have already been appropriated and awarded through the moratorium exception process. Pursuant to Laws of Minnesota 2000, chapter 271, section 1 (amending Minnesota Statutes, section 256B.431, subdivision 17).
- Section 15.139, pages 114-115: This is deleted due to repeal of its statutory authority. Pursuant to Laws of Minnesota 2000, chapter 449, section 15 (repealing Minnesota Statutes, section 256B.431, subdivision 3j).
- Section 18.040, page 121: This is deleted due to repeal of its statutory authority. Pursuant to Laws of Minnesota 2000, chapter 449, section 15 (repealing Minnesota Statutes, §256B.50, subdivision 3).
- Section 19.026, pages 125-127: Language regarding nursing facility closures is added to allow for an orderly, planned closure for up to seven nursing facilities owned or operated by a nonprofit corporation owning or operating more than 22 nursing facilities licensed in Minnesota. Language provides for an interim rate for a facility that is closing and rate adjustments for facilities within the same organization that remain open based on the savings generated from ones that have closed.

Pursuant to Laws of Minnesota 2000, chapter 364, section 1 (Minnesota Statutes, §256B.436).

- Section 19.033, page 127: This is deleted due to repeal of its statutory authority. Pursuant to Laws of Minnesota 2000, chapter 449, section 15 (repealing Minnesota Statutes, section 256B.431, subdivision 2m).
- Section 19.070, pages 132-134: This is deleted due to repeal of its statutory authority. Pursuant to Laws of Minnesota 2000, chapter 449, section 15 (repealing Minnesota Statutes, section 256B.431, subdivision 2p).
- Section 19.100, pages 135-137: This new section allows nursing facilities, paid pursuant to the prospective rate-setting methodology of Sections 1.000 through 20.000, that place beds on lay away status, for purposes of application of the downsizing incentive and calculation of the rental per diem, to have those beds given the same effect as if they had been delicensed—as long as the beds stay on lay away status. The language establishes a formula and criteria for adjusting rates to accommodate bed lay away. Language also specifies bed lay away criteria and calculations for nursing facilities paid pursuant to Section 21.000. This includes recalculation of the rental per diem for beds that are delicensed.

A property payment rate increase under this section is proportionally reduced if the additional space made available as a result of bed lay aways or delicensure is not used to reduce the number of beds per room or provide more common space for nursing facility uses or is not devoted to other activities related to operation of the facility. Pursuant to Laws of Minnesota 2000, chapter 488, article 9, section 21 (Minnesota Statutes, section 256B.431, subdivision 30).

The provisions for the lay away of licensed and certified beds was enacted in Laws of Minnesota 2000, chapter 488, article 9, section 3 (Minnesota Statutes, section 144A.071, subdivision 4b), which reads:

Licensed Beds on Layaway Status. A licensed and certified nursing facility may lay away, upon prior written notice to the commissioner of health, up to 50 percent of its licensed and certified beds. A nursing facility may not discharge a resident in order to lay away a bed. Notice to the commissioner shall be given 60 days prior to the effective date of the layaway. Beds on layaway shall have the same status as voluntarily delicensed and decertified beds and shall not be subject to license fees and license surcharge fees. In addition, beds on layaway may be removed from layaway at any time on or after one year after the effective date of layaway in the facility of origin, with a 60-day notice to the commissioner. A nursing facility that removes beds from layaway may not place beds on layaway status for one year after the effective date of the removal from layaway. The commissioner may approve the immediate removal of beds from layaway if necessary to provide access to those nursing home beds to residents relocated from other nursing homes due to emergency situations

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or closure. In the event approval is granted, the one-year restriction on placing beds on layaway after a removal of beds from layaway shall not apply. Beds may remain on layaway for up to five years.

- Section 21.066, pages 144-145: Language governing rate increases for specific nursing facilities is added pursuant to Laws of Minnesota 2000, chapter 488, article 9, section 22 (Minnesota Statutes, section 256B.434, subdivision 4b).

The fiscal impact was measured by estimating the aggregate annual difference in the facilities' rates. The fiscal impact estimates are as follows:

	(in thousands)	
	<u>SFY 2001</u> (11 months)	<u>SFY 2002</u> (12 months)
Estimate State share cost/(savings)	\$ 8,516	\$ 8,311
State share percentages	48.80%	48.97%
Total estimated MA cost/(savings) (State share estimate divided by State share %)	\$17,452	\$16,971
Federal share percentages	51.20%	51.03%
Estimated federal share on SFY basis	\$ 8,936	\$ 8,660

The figures were estimated based on the State's fiscal year which begins July 1, 2000. The July 1 date coincides with the beginning of the nursing facility's rate year. The effective date of these changes is July 1, 2000.

The State's payment for nursing home services lags the provision of services by one month. The federal budget impact is then determined by converting the estimated federal share for the State's fiscal year to the Federal Fiscal Year beginning October 1, 2000, by dividing by the number of months payments are made in the State's fiscal year, and multiplying the result by the number of months those payments will be made in the Federal Fiscal Year.

	<u>FFY 2000</u>	<u>FFY 2001</u>
Estimated federal share of FFY basis	\$1,625	\$9,567

These amounts represent the estimated changes from approved TN 99-10's payment method.

STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

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**METHODS AND STANDARDS FOR DETERMINING PAYMENT RATES
FOR SERVICES PROVIDED BY NURSING FACILITIES
(NOT STATE OWNED)**

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Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

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STATE: MINNESOTA

Effective: July 1, 2000

TN: 00-22

Approved:

Supersedes: 99-10 (99-04/98-22/97-20/97-11)

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**METHODS AND STANDARDS FOR DETERMINING PAYMENT RATES
FOR SERVICES PROVIDED BY NURSING FACILITIES
(NOT STATE OWNED)**

SECTION 1.000 INTRODUCTION

SECTION 1.010 General Purpose. The purpose of the Minnesota Medicaid methods and standards for determining payment rates for nursing facilities, which are not state-owned, is to provide for payment of rates in conformity with applicable state and federal laws, regulations and quality and safety standards. In determining the rates, the Commissioner of the Department of Human Services will take into account the mix of resident needs, geographic location, and other factors. Minnesota has in place a public process which complies with the requirements of Section 1902(a)(13)(A) of the Social Security Act.

Nursing facilities participating in the Minnesota Medical Assistance Program are paid either by a prospective rate-setting methodology described in Sections 1.000 to 20.000, or by the contractual rate-setting methodology described in Section 21.000. These methodologies, established in Minnesota statutes and rules, are described in this attachment.

SECTION 1.020 Overview. A very brief description of the overall rate setting mechanism may be helpful. Cost reports are submitted annually. Nursing facilities have a common reporting year of October 1 to September 30. The common rate year of July 1 to June 30, lags the report year. The submitted cost reports are desk audited to determine allowable costs and then subject to various other cost category limitations. The rates that are set are subject to appeal. Rates may be adjusted retrospectively for field audit and appeal resolutions. Nursing facilities in Minnesota cannot charge private paying residents rates which exceed the rate for medical assistance recipients receiving similar services in multiple bed rooms.

Minnesota's basic rate setting formula establishes an array of prospective payment rates that vary with a resident's care needs. The rate is composed of a care related rate plus other operating rate plus an inflation adjustment factor plus property payment rate. The total payment rate may include a shared efficiency incentive of up to \$2.25 per resident per day, provided the nursing home operates below the other operating cost limitations. This can be summarized by the following:

A. Care Related Costs

1. This type of cost is based on allowable care related costs from prior reporting years for each nursing facility. Only the nursing component varies with a resident's case mix.
2. Resident days and nursing care costs are adjusted using case mix weights to determine proportion of costs allocable to each of eleven payment classes.

3. There are eleven rates for each nursing facility based on the relative resource use and case mix needs of the resident.

4. Until July 1, 1999, homes are grouped by three geographic locations which set limits on rates. Special purpose or characteristic homes maybe treated differently for purposes of applying rate limits.

5. Homes can also trade off nursing and other care related expenditures within the combined limits for those two cost categories. Beginning July 1, 1998, these two limitations do not apply, except for purposes of determining a facility's efficiency incentive.

6. The care related costs include nursing salaries and supplies and non-prescription drugs.

7. The other care related costs include food costs, social services, activities etc.

B. Overall Spending Limits Until July 1, 1999

1. Pursuant to Section ~~11.045~~ 11.047, the operating rate paid to a nursing facility will not be more than its prior year's allowed operating costs plus inflation plus a factor above inflation (on a per diem basis).

2. Pursuant to Section ~~11.045~~ 11.047, a nursing facility determined to be high cost when compared to similar nursing facilities shall have its per diem costs reduced.

C. Other Operating Costs Until July 1, 1999

1. These costs are grouped by geographic location to set limits. Beginning July 1, 1998, nursing and other care related expenditures do not apply, except for purposes of determining a facility's efficiency incentive. Similarly, the maintenance and administrative cost categories no longer apply.

2. There is an efficiency incentive. Homes can receive an additional payment if costs are under the Other Operating Cost limit.

3. The other operating costs include such costs as remaining dietary, laundry and linen, housekeeping, plant operations and maintenance, general and administrative, and the remaining payroll taxes and fringe benefits.

D. Adjustment Factor

1. Until July 1, 1999, all operating costs are updated annually by a 21 month inflation factor. The 21 month inflation factor accounts for the 9 month lag between the end of the reporting year (9/30) and the beginning of the rate year (the following 7/1). The Department contracts with an econometric firm to provide economic change indices for use in determining operation cost payment rates.

2. Until July 1, 1999, limits are established for a base year and are adjusted annually by a 12 month inflation index for the time period between the midpoints of cost reporting years. The process of indexing limits now extends to the overall spending limits.

3. Certain costs such as real estate taxes, special assessments, licensing fees, Public Employee Retirement Act pension contributions, and preadmission screening fees are passed through.

E. Property Payment

1. For the period July 1, 1992, to September 30, 1992, property rates continued as established under the current plan; that is, they will continue to be "frozen" with certain exceptions.

2. After September 30, 1992, a new property system took effect. That system establishes a minimum property rate equal to the greater of their current "frozen" property-related payment rate or \$4.00 per resident day. This rate may be subject to adjustment due to several factors which include:

a. An incremental increase as determined utilizing the State's former rental system with certain modifications such as a higher equipment allowance, adding the actual cost of a major projects with the application of a limit on investment, or the sale of the nursing facility.

b. An equity incentive payment which will encourage equity rather than debt financing of major projects. (effective 7/1/93)

c. A capital asset repair or replacement payment for purchases up to \$150 per licensed bed per year with a carryover of any excess. (effective 7/1/93)

d. A refinancing incentive for a refinancing that saves on annual interest expense payments (effective 7/1/93).

3. The sale of a nursing facility after June 30, 1992, may result in an increase in the nursing facility's property rate. The amount of that increase will be measured by the modified rental recalculation. An increase in interest expense is allowed within certain limitations. The amount of the "step-up" in the nursing facility's capital asset basis, if any, does not result in an a property rate increase since depreciation is not a component of property rate computation.

4. After September 1, 1992, nursing facility appraisals will no longer be needed except to resolve appraisal appeals. The nursing facility's appraised value will be indexed for inflation annually. Also, capital asset additions or deletions will be deducted from the indexed appraised values.

F. Contractual Rate-setting Alternative Method After August 1, 1995

1. A nursing facility may apply to be paid a contractual alternative payment rate instead of the cost-based payment rate established under Sections 1.000 to 20.000. Proposal requirements, selection criteria, limits, exemptions, and consumer protections are described in Section 21.000.

2. A nursing facility electing to receive an alternative payment rate must enter into a contract with the Department. All contracts entered into are for a term of one year.

3. Different contract terms may be negotiated for different facilities.

4. A nursing facility's case mix payment rates for the first rate year of a facility's contract is the payment rate the facility would have received under Sections 1.000 to 20.000.

5. Until July 1, 1999, a nursing facility's case mix payment rates for the second and subsequent years of a facility's contract are the previous rate year's contract payment rates plus an inflation adjustment.

6. A Medicare certified nursing facility electing to receive an alternative payment rate filing a Medicare cost report must comply with Section 21.080, item A. A nursing facility that is not Medicare certified does not have to file a Medicare cost report, but must file a cost report as described in Section 2.000.

7. Certain other exemptions, such as an exemption from auditing requirements under applicable state laws, are outlined in Section 21.000.

8. Participation in the contractual alternative payment rate setting method is voluntary. Participating facilities must continue to comply with all state and federal requirements relating to quality assurances, vulnerable adults protections, residents' rights, and

OBRA requirements.

9. Beginning with July 1, 1997 rates, the excess therapy revenue offset is waived pursuant to Section 20.030, item H.

G. July 1, 1998 Changes. Section 11.048 contains changes for this and subsequent rate years. The changes:

1. provide rate exceptions for certain nursing facilities by increasing the allowable care-related per diem and the operating cost per diem;
2. increases the spend-up limits and provides a one-year rate adjustment for a specific nursing facility that completed an approved replacement and remodeling project;
3. increases the care-related spend-up limit for a specific nursing facility that is exempt under current law from certain rate limits and has at least 75 percent of its beds licensed to provide residential services for persons with physical handicaps;
4. exempts a specific nursing facility from spend-up limits;
5. for all nursing facilities, eliminates the care-related, other operating cost, general and administrative, and plant and maintenance limits. These limits will be calculated only for purposes of determining efficiency incentives;
6. set a floor on nursing home per diem payments no lower than the rate in effect on June 30, 1998, subject to rate adjustments and audits;
7. combine the care-related per diem and the other operating per diem for purposes of establishing spend-up limits; and
8. require the Department to calculate the spend-up and high-cost limits by indexing each geographic group's median value by the CPI plus one percentage point.

SECTION 1.030 Definitions.

Actual allowable historical operating cost. "Actual allowable historical operating cost" means the operating costs incurred by the nursing home and allowed by the Commissioner for the most recent reporting year.

Addition. "Addition" means an extension, enlargement, or expansion of the nursing home for the purpose of increasing the number of licensed beds or improving resident care.

Applicable credit. "Applicable credit" means a receipt or expense reduction as a result of a purchase discount, rebate, refund, allowance, public grant, beauty shop income, guest meals income, adjustment for overcharges, insurance claims settlement, recovered bad debts, or any other adjustment or income reducing the costs claimed by a nursing home.

Appraised value. "Appraised value" means the value of the nursing home buildings, attached fixtures, and land improvements used directly for resident care as determined under Section 15.000.

Assessment form. "Assessment form" means the form developed by the Department of Health as adopted and used for performing resident assessments.

Attached fixtures. "Attached fixtures" means equipment used directly for resident care affixed to the building and not easily movable as specified in the fixed equipment table of the depreciation guidelines.

Buildings. "Buildings" means the physical plant used directly for resident care and licensed and auxiliary buildings in the nature of sheds, garages, and storage buildings located on the site if used directly for resident care. This definition does not include buildings or portions of buildings used by central, affiliated, or corporate offices.

Building capital allowance. "Building capital allowance" means the component of the property-related payment rate which is denominated as a payment for the use of building, attached fixtures, and land improvements.

Capital assets. "Capital assets" means a nursing home's buildings, attached fixtures, land improvements, depreciable equipment, leasehold improvements, and all additions to or replacements of those assets used directly for resident care.

Case mix operating costs. "Case mix operating costs" means the operating costs listed in Section 6.050 and the portion of fringe benefits and payroll taxes allocated to the nursing services cost category under Section 8.000.

Commenced construction. "Commenced construction" means the date on which a newly-constructed nursing home, or nursing home with an increase in licensed beds of 50 percent or more, meets all the following conditions:

A. The final working drawings and specifications were approved by the Commissioner of health.

B. The construction contracts were let.